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U.S. DISTRICT COURT
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TX EASTERN-MARSHALL
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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

CHERLYN CRAWFORD, as next friend and natural guardian for KYNDLE CRAWFORD, a minor child, and as representative of the ESTATE OF COREY S. CRAWFORD *Plaintiff*	§	Cause No. 2-09CV-017
vs.	§	Jury
DOWNEY TRUCKING, INC., and FEDEX CUSTOM CRITICAL, INC. *Defendants.*	§	

PLAINTIFF'S ORIGINAL COMPLAINT

COMES NOW, CHERLYN CRAWFORD, in her representative capacity as natural guardian and next friend for KYNDLE CRAWFORD, minor child, hereinafter referred to as Plaintiff, as representative of the ESTATE OF COREY CRAWFORD and, complaining of DOWNEY TRUCKING, INC., and FEDEX CUSTOM CRITICAL, INC., hereinafter referred to as Defendants, and for cause of action, would respectfully show the Court the following:

I. JURISDICTION & VENUE

1. The Plaintiff Cherlyn Crawford is natural person who is a citizen of the State of Texas and the Eastern District of Texas.

2. The Defendant Downey Trucking, Inc. is a corporation that is incorporated under the laws of the State of Tennessee with its principal place of business at 205A Old Westmoreland Rd., Portland, Tennessee 37148. Defendant Downey does not have a registered agent for service

of process in the State of Texas. Service of process on this Defendant may be made according to the laws of the State of Texas by serving the Secretary of State of Texas.

3. The Defendant FedEx Custom Critical, Inc., is a Tennessee corporation, with its principal place of business located in Tennessee, and is authorized to do business in the State of Texas. The Defendant FedEx Custom Critical may be served with process through its registered agent for service in the State of Texas, CT Corporation, 350 St. Paul Street, Dallas, Texas 75201.

4. This case involves a controversy between citizens of different states and the amount in controversy is greater than $75,000.00, excluding interest and costs, and jurisdiction is therefore proper pursuant to 28 U.S.C. 1332(a).

5. The Defendant Downey Trucking and the Defendant FedEx Custom Critical are subject to personal jurisdiction in the Eastern District of Texas and are therefore residents of this District pursuant to 28 U.S.C 1391 (c). All or a substantial part of the events giving rise to this cause of action occurred in Panola County within the Eastern District of Texas. Venue is therefore proper in the Marshall Division of the Eastern District of Texas pursuant to 28 U.S.C 1391(a)(1) and 1391(a)(2).

III. FACTS

6. On or about September 24, 2007, Corey S. Crawford was operating his 2001 Toyota Solara, in a reasonable and prudent manner, traveling North on Hwy 315 in Panola County, Texas.

7. Russell Bryan Tinsley, who at all material times was acting in the course and scope of employment for Defendant Downey Trucking, was traveling ahead of Mr. Crawford when, due to a mechanical failure, the tractor-trailer truck he was operating began to lay down a thick bank

of smoke. Despite the fact that the smoke generated by Mr. Tinsley's truck resulted in complete loss of visibility to others on the roadway, Mr. Tinsley continued to travel down the roadway. David Perkins, who at all material times was acting in the course and scope of employment for Defendant FedEx Custom Critical, was also operating a truck traveling ahead of Mr. Crawford. When he encountered the smoke cloud created by the Defendant Downey's vehicle, he elected to continue into the smoke despite the complete loss of visibility, and to stay on the main travel lane while sharply reducing the speed of his vehicle.

8. Mr. Crawford's vehicle struck the rear of the Defendant FedEx Custom Critical's vehicle being operated by David Perkins, and moments later was struck from the rear by a log truck being operated by James Terry Walker and owned Hatfield Lumber Company. Both Mr. Crawford and Mr. Walker died as a result of injuries sustained as a result of the collisions.

9. KYNDLE CRAWFORD, who was born August 29, 2001, is the daughter of COREY S. CRAWFORD and CHERLYN CRAWFORD. Cherlyn and Corey were subsequently divorced on June 5, 2004. Cherlyn Crawford appears herein as the natural guardian and next friend of Kyndle Crawford to assert her claims for the wrongful death of her father, Corey S. Crawford, and on behalf of Kyndle as representative of her father's estate to assert the claims of the estate arising from his wrongful death due to the negligence of the Defendants.

III. NEGLIGENCE OF DOWNEY TRUCKING

10. On or about September 24, 2007, Russell Bryan Tinsley, while acting within the course and scope of his employment for Defendant Downey Trucking, Inc., was operating his vehicle in a negligent manner, and such negligence was a proximate cause of the collisions involving Corey Crawford, and his resulting death.

IV. NEGLIGENCE OF FEDEX CUSTOM CRITICAL

11. On or about September 24, 2007, David Wayne Perkins, while acting within the course and scope of his employment for Defendant FedEx Custom Critical, Inc., was operating his vehicle in a negligent manner, and such negligence was a proximate cause of the collisions involving Corey Crawford, and his resulting death.

IV. DAMAGES

12. As a producing and/or proximate cause of the improper conduct of the Defendants as set forth herein, Plaintiff has sustained actual damages in excess the minimum jurisdictional limits of this Court. Plaintiff seeks damages as reasonably determined by a jury to adequately compensate Kyndle Crawford for the loss of love, affection, solace, comfort, companionship, society, care, maintenance, support, services, advice, counsel, reasonable contributions of a pecuniary value that she in reasonable probability would have received from her father had he lived, and the present value of the assets that Corey S. Crawford would have in reasonable probability added to his estate and left to Kyndle Crawford. In addition, Plaintiff seeks damages as reasonably determined by a jury to adequately compensate the Estate of Corey S. Crawford for the conscious pain and suffering, mental anguish, medical expenses, and funeral expenses sustained by Corey S. Crawford as a result of his wrongful death due to the negligence of the Defendants, their agents, and employees.

13. Plaintiff's damages are to a large extent intangible and therefore such losses are not susceptible to mathematical estimation, and by their very nature must be left to the discretion of a jury to award a sum which will reasonably and fairly compensate the Plaintiff for these losses, based upon the instructions of the court as to the appropriate elements to be considered.

14. By virtue of the foregoing, Plaintiff seeks fair, just and adequate compensation for her respective damages in an amount in excess of the minimum jurisdictional limits of this Court, together with pre-judgment and post-judgment interests as provided by law.

WHEREFORE, Plaintiff prays that Defendants will be cited to appear and answer herein, that this cause, be set for trial before a jury, and that the Plaintiff recovers judgment of and from the Defendants for damages as alleged herein, together any and all other relief to which Plaintiff may be entitled, at law or in equity, including pre-judgment and post-judgment interest as provided by law, costs of court, and for such other and further relief to which the Plaintiff may be shown to be justly entitled.

Respectfully Submitted,

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